

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

JULIAN GARCIA, PRO SE,
TDCJ-CID No. 1182237,

Plaintiff,

v.

EDDIE L. WHEELER, Warden, ET AL.,

Defendants.

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2:09-CV-0153

ORDER OF PARTIAL DISMISSAL

Plaintiff JULIAN GARCIA, acting pro se and while a prisoner confined in the Texas Department of Criminal Justice, Correctional Institutions Division, filed suit pursuant to Title 42, United States Code, section 1983 complaining against three defendants employed by or otherwise connected with the Texas Department of Criminal Justice and was granted permission to proceed in forma pauperis.

On April 2, 2010, a Report and Recommendation was issued by the United States Magistrate Judge recommending plaintiff's claims against defendants Warden EDDIE L. WHEELER and Assistant Warden MITCHELL L. BRADSHAW be dismissed without prejudice for failure to state a claim on which relief can be granted.

Plaintiff filed his Objections on April 21, 2010. By his Objections, plaintiff has not cured the failure to provide a factual basis for his claims against these defendants.

The Court has made an independent examination of the records in this case and has examined the Magistrate Judge's Report and Recommendation, as well as the Objections filed by the plaintiff.

The Court is of the opinion that the Objections of the plaintiff should be OVERRULED and the Report and Recommendation of the United States Magistrate Judge should be ADOPTED by the United States District Court.

This Court, therefore, does OVERRULE plaintiff's objections, and does hereby ADOPT the Report and Recommendation of the United States Magistrate Judge.

IT IS THEREFORE ORDERED that the Civil Rights Claims pursuant to Title 42, United States Code, section 1983, by plaintiff JULIAN GARCIA against defendants Warden EDDIE L. WHEELER and Assistant Warden MITCHELL L. BRADSHAW ARE DISMISSED WITHOUT PREJUDICE FOR FAILURE TO STATE A CLAIM ON WHICH RELIEF CAN BE GRANTED.

The Clerk shall send a copy of this Order to plaintiff and to any attorney of record.

IT IS SO ORDERED.

ENTERED this 4th day of May, 2010.

/s/ Mary Lou Robinson
MARY LOU ROBINSON
UNITED STATES DISTRICT JUDGE